

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1585 of 1998

in

SPECIAL CIVIL APPLICATION No 6955 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH and  
MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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VIJENDRA FULABHAI PATEL                      OWNER- SHRI RADHEY PROTIENS

Versus

STATE OF GUJARAT

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Appearance:

M/S THAKKAR ASSOC. for Appellant  
MS HARSHA DEVANI, LD. AGP for Respondent Nos.1 to 3  
MR BT RAO, ADDL. STANDING COUSEL for Respondent No. 4

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CORAM : MR.JUSTICE M.S.PARIKH and  
MR.JUSTICE A.K.TRIVEDI

Date of decision: 05/02/99

ORAL JUDGEMENT

1. This Letters Patent Appeal has been placed for

final hearing before this Bench after it came to be admitted on 19/1/1999. Accordingly we have heard Mr. D.M. Thakkar, L.A. for the appellant, Ms. Harsha Devani, Ld. A.G.P. for the respondents nos. 1 to 3 and Mr. B.T. Rao, Ld. Addl. Standing Counsel for respondent no. 4 Central Government.

2. The appellant challenged his detention u/S. 3(2) of the Prevention of Black Marketing & Maintenance of Supplies of Essential Commodities Act, 1980 ('PBM Act' for short) under Article 226 of the Constitution of India by filing writ petition bearing Special Civil Application No. 6955 of 1998. Upon hearing of the said writ petition, learned Single Judge by his judgment and order dated 14/12/1998 dismissed the petition. That is how the detenu is before this Court by way of this Letters Patent Appeal.

3. Brief facts concerning the appellant's detention are that : Groundnut edible oil seeds (for short 'pods') being the essential commodity declared under Part - V of sec. 2 of the Essential Commodities Act came to be regulated by separate order requiring intimation by the licence holder to the Competent Authority 48 hours before his intention to move the said commodity outside the State of Gujarat. The appellant being a licence holder dealt with the said commodity at his place of business in the name and style of 'Radhey Proteins' as specified in the licence. On July 30, 1998 inspection of oilseeds going outside the State of Gujarat was made at the check post and it was found that in Truck No. GQB 4353 stock of 10 Tons of pods kept in 200 bags was loaded. Bill No. 60 was prepared for M/s. Shashi Traders. The driver gave his statement that the appellant/petitioner was the owner of the consignment which was to be transported to Bombay. Upon cross-checking it was found that there was no firm like M/s. Shashi Traders and the transport of pods was being carried out at a different place and the bill that was prepared in the name of M/s. Shashi Traders was a bogus bill. Without submitting declaration and obtaining permission of the Competent Authority, the petitioner was found transporting pods to Bombay and as such he committed breach of clause 24 of the Gujarat Essential Commodities (Licencing, Control and Stock Declaration) Order, 1981, under which the appellant held the licence as aforesaid. Other irregularities were also found. On 8/5/1998 stock of 50 bags having 2000 Kgs. of pods was seized from the appellant. Seizure proceeding continued. The stock was given in the custody of the appellant with a direction to keep it and not to dispose of till the disposal of seizure proceeding. Ignoring

this direction, the appellant disposed of 50 bags of pods without taking permission of the Authority. This was another breach on the part of the appellant. These activities on the part of the appellant indicate that he was engaged in black marketing and was earning high profit by transporting pods outside the State of Gujarat. That is how the detaining authority came to form subjective satisfaction that at the time when in Gujarat due to severe scarcity of groundnut oil and oil seed, prices were rocketed, the appellant formed/organised conspiracy with an intention to earn high profit and involved in the activities of black marketing. Considering that alternative remedy of cancellation of the licence of the appellant and his prosecution under the provisions of the Essential Commodities Act would not be effective to prevent immediate crisis created due to such black marketing activities, the impugned order of detention was passed.

4. Dealing with the submissions made on behalf of the appellant learned Single Judge came to the conclusion that the detaining authority had taken subjective decision as aforesaid and that there was no alternative remedy, which could prevent the activity complained of in the impugned order of detention. Learned Single Judge also held that there was no delay in dealing with and disposing of the respective representations made on behalf of the appellant either by the concerned authority at the State level or by the concerned authority at the level of the Central Government. Learned Single Judge has, therefore, by his considered judgment dismissed the writ petition.

5. At this stage it might be noted that the total period of detention under the PBM Act is also coming to an end within a day or two.

6. We have gone through the judgment of learned Single Judge and for the reasons recorded on facts of the appellant's case, we do not find it just and proper to interfere with the decision of the learned Single Judge. We have also gone through the record and the files made available to us. We find that there is no reason to come to a conclusion different from the one drawn by the learned Single Judge. Hence, in the facts of the case, we dismiss this Letters Patent Appeal. No cost.